

"FRANK IS INNOCENT" ; - BURNS

By Edward Marshall.

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Wm. J. Burns.

"FRANK IS INNOCENT"--BURNS

Famous Detective

Analyzes the Celebrated Murder Case.

He Says That Execution of This Man for This Crime Would Be a Greater Sin than That of Which He Unjustly Stands Convicted by the Courts of Georgia.

element; almost as quickly they were followed by recantations; the whole affair became a complicated melle of which the chief characteristic was that officialdom, and hence, of course, a large part of the public, clamored for Frank's life.

"A woman of notorious character made an affidavit to the effect that Frank had telephoned her for a room at her house, saying that he was to take a girl there, as he had done (she said) several times before, and added to the charges of perversion which already had been made against him by Conley. She absolutely recanted later, saying that she had been forced to make the statement.

"One boy who had given sworn information against Frank to the police vacillated half a dozen times between asseverations and recantations. Newspapers issued frequent extras for the first time in the history of Atlanta.

"The town seethed—and the trial came.

"There were well-founded fears of mob violence. Other witnesses lied and confessed to it; others were fearful and refused to testify; the courtroom was constantly crowded. On the day when the verdict was expected State militia were held under arms. Every attorney working in Frank's behalf received letters threatening his life.

Convinced of Frank's Innocence.

"The charges of degeneracy against Frank were supported by no witness who did not recant, except 'Jim' Conley, and, as is believed by many, he knew more about the crime than any one else appearing in court, his anxiety that it should be saddled upon some one other than himself is easily understandable.

"The prosecutor's address to the jury was a remarkable and by many vividly criticized effort, dealing, less with the Frank case, or, at least, not much more with it than with various cases in which sexual degeneracy had played a part. This point was fiercely emphasized, although not one word of evidence save Conley's supported it. And he was a suspect, fearful for his own life! Frank was convicted. He was sentenced to death.

"He now has been denied a new trial; but his friends are making an intense final effort to save him. If it does not succeed the failure will put the blackest of blots upon the administration of justice in this country.

"My connection with the case came long after the conviction. I went to Atlanta to lecture. A committee of Frank's local friends very strongly urged me to look into the case. I said I had no time. They persisted that an innocent man's life was in peril and that they were willing to pay me for his clearance.

"They notified me, for it was elsewhere hinted that I was being urged to try to save a guilty man. I said to them:

"Neither you nor any one has enough money to hire me to attempt to thwart justice. If I start to investigate and find this man guilty I promptly shall withdraw from the case and that will hurt Frank worse than anything else could."

"This did not worry them and that impressed me. 'Go ahead,' said they. 'If he's guilty we shall want you to withdraw.'

"It was really that which induced me to take up the case. It started me into thinking that 'perhaps the man really was innocent.' I must admit here that the condition I had so emphatically laid down with my friends that if I found him guilty I should withdraw from the case had been born of fear that I might do so. But as soon as I had cleared him, in my own mind, of the charge of perversion, which was very soon indeed, my mental attitude changed. That false charge of perversion undoubtedly had caused the mob-clamor for his conviction. Its elimination was of immense importance to me. As soon as it was accomplished I desired above all things to try to help him.

"Then began my investigation of the police and private detectives working against him, and my desire to help him grew. Their attitude was startling. It was 'Hang this man whether or no,' with them, as it had been with the prosecution at the trial which convicted him, the results of which we were trying to set aside.

"Having run down and disproved the perversion story to my satisfaction, I offered a reward of \$5,000 to any one who would bring facts to its support. No one applied for the reward; but that did not stop the abuse and vituperative talk in Atlanta.

"My conviction of Frank's innocence soon became known, although I made no statement of it. Promptly an avalanche of letters descended upon me. They were couched in the most outrageous terms and threatened every evil, including assassination. I was told that my Southern offices would be closed, that my license would be taken away, that I never again would be permitted to enter Atlanta, that if I continued to try to save Frank a mob would get me. These fresh evidences that a spirit of prejudice had misled justice but increased my determination to help Frank if I could.

"Prejudice against Frank? In all my experience I never have known of such an instance of unreasoning, unjustified, and bitterly murderous prejudice against any prisoner.

"Having convicted the man, the police and the prosecuting officers were on trial whenever an effort to reverse his conviction was made. The police were fighting for their lives. Their assumption was that it was either hang Leo M. Frank or lose their jobs.

"It may not be amiss for me to mention my own treatment. Already I have spoken of the threats made against me as soon as it became known that I had taken up the case. Well, I have not been assassinated, but my license to do business in Atlanta has been taken away. Any one suspected of sympathy with Leo M. Frank is regarded as a proper object of official suspicion in Atlanta.

Burns Men Arrested.

"Every man connected with my office in Atlanta, including Mr. Leon, its manager, was one day arrested. A warrant was issued for me, but I was not in town and so it was not served. Those who were arrested were dragged to the Police Court and forced to stand for hours in company with intoxicated persons and the regular grist of Police Court prisoners, and all were fined on the assumption that they were connected with an unlicensed detective agency, when as a matter of fact my agency was licensed.

"In consequence I have been compelled to transfer my Georgia office to Birmingham. In Atlanta I have not been permitted even to continue my investigations into matters not in any way connected with the Frank case. For instance, depositions which had been suffered by certain financial institutions. Frank? It is so strong, so all-embracing, so fostered by the police and those to whom a reversal of his conviction would be a blow that any person favoring Frank is a marked man in the city.

"As a matter of fact the whole theory of the prosecution was wrong, not alone as to the identity of Mary Phagan's slayer, but as to the particular spot in the factory where murder was committed and its method. The testimony is that the notes which Conley now admits writing, claiming that they were dictated by Frank, despite their illiterate construction and negro idiom, were written upstairs in the office. There was not had been for months that sort of a blank in the office. There were plenty of such blanks among waste paper in the basement, where the murdered girl was found. And there was a blow that any person favoring Frank was a marked man in the city.

"In the notes the phrase occurs: 'He pushed me down that hole.' If the murder was committed upstairs in the factory, why was the hole in the mind of any one concerned with the killing? Conley's testimony was that the body was taken to the basement on the elevator—a method of descent in which the hole referred to would play no part. The hole was mentioned by Conley when he wrote the notes because the girl really was pushed down it.

"I know how and by whom the crime was committed. Leo Frank had nothing whatever to do with it. Conley, drunken and hard up, was hiding behind the boxes at the foot of the stairway when Mary Phagan, who had drawn her pitiful little wage, went

down on her way out of the building. She had her money in her hand. She decided to go to the basement and leave her parcel against the wall before starting down the stairs. Then Conley caught her, not with the intention of killing her, but with the intention of robbing her.

"Having struck her, he heard some one calling her, as he confessed to Anne Hand (Carter) and then quickly pushed his victim through a square hole in the floor close by, a hatchway, to which a ladder rose from the basement.

"It was in this fall, and not from a blow by any weapon, that Mary Phagan received the great cut on her head which killed her. Nothing in the factory would have inflicted just that wound save the short, sharp-cornered log which lay behind the foot of the ladder. Bruises on her body were such as would have been made by the ladder as she struck against it in the course of her fall.

"It is strange and unfortunate that the log and this almost certainly accurate, indeed, I may say this surely accurate theory of the manner of the child's death were not brought forward at the trial at all.

"Atlanta abhorred the crime. Frank, the police had arrested Leo M. Frank, Conley's statement, devised to save his own neck, would save also the faces of the police and with the public had produced a profound impression against Frank. Thumbs were down.

"And the jury? It was a sensational trial. Prejudice ran high. Outside the Court House a mob demanding Frank's life seethed while the soldiers waited. The crowd within the courtroom was antagonistic. I have no doubt that a jury finding Frank innocent would have been roughly handled, although I speak from hearsay. I was not in Atlanta at the time of the trial.

"It was the charge of perversion which had sealed Frank's fate. To charge the defendant in a difficult case with perversion is one of the oldest tricks known to prosecuting attorneys. The minute such a charge is brought against a man he is stripped of almost every vestige of his own power to defend himself.

"Notwithstanding all the threats which had been made, I gave the results of my inquiries to the newspapers, definitely and publicly announcing that Leo M. Frank is absolutely innocent of the crime charged against him and that his conviction was the result of a frame-up by the Police Department and the private detectives. The course of the latter in Atlanta was startling. While Scott, the Pinkerton man, was on the stand the questioning ran about like this:

"You say you always follow the police?"

"Yes."

"But if the police had theories and you had facts which contradicted them, would you still follow them?"

"Yes; we would follow."

"Conley's Words Not Put on Record."

"And there you are. That tells the story. I will only say in comment that I will not follow any one in my deductions, when his leadership takes me away from facts.

"In dealing with 'Jim' Conley, the negro convicted as an accessory, he was questioned in extenso. Whenever he made a statement which did not please them they would keep it off the record, saying:

"That does not fit."

"That they would continue questioning until they got an answer from him that did fit.

"The question is, fit what? The answer is, fit the police theory that Leo M. Frank murdered Mary Phagan. There was blood on Jim Conley's

shirt. There must have been. But when he was found washing it at the factory and the police were notified, they took him to the station, examined the shirt cursorily and then returned it to him. No scientific examination was made of it. This is an important matter in view of the fact that eighteen days later he admitted the authorship of the famous 'murder notes.'

"And while there, absolutely nothing in the life history of Leo M. Frank to indicate the truth of the reports of degeneracy, there is much in the life of Jim Conley, a negro, which indicates his degeneracy. Read these letters which he wrote to a negro woman while he was locked up, long after the crime.

"Detective Burns handed me a transcript of letters Conley had written in his cell and which had been intercepted. They are startling, dreadful, and do all that he says they do.

"And there is another point: Jim Conley was a chronic note-writer, although for a long while the prosecution accepted his statement that he could not write at all. The note was a favorite medium of expression with him. If he wanted to borrow money he would ask for it in a note; if he wanted information he would ask for it in a note, when he might as easily have asked for it by word of mouth. His claim that the notes were written by Frank's order and at Frank's dictation is absurd. They were logical expressions of Jim Conley's personal idiosyncrasies.

Change in Conley's Story.

"And it must be remembered, also, that, according to Conley's sworn testimony, Frank planned to have the body buried and utterly destroyed, so that Mary Phagan's death would be marked simply by her mysterious disappearance.

"Yet, in the face of that, the testimony on which Frank was convicted includes the statement that he also ordered these notes written. If he had intended to have a mysterious disappearance mark Mary Phagan's end, he scarcely would have ordered any one to write notes telling of the killing.

"The police took Conley to the factory to put him through the motions of the crime. When the party had him on the second floor, where the crime was committed, according to his story, he pointed out a spot. But it was not the spot where the alleged blood stains had been found. Then the police helped him.

"Aren't you wrong?" they said in substance. "Wasn't it here?" And they pointed out the location of the alleged blood stains. And Conley changed his story to fit.

"Another point: Conley said the paper on which the notes were written came from Frank's desk. As a matter of fact the blanks were of an obsolete type which had not been used for some time and none had been in Frank's desk for months. The only place where they could be found was in the basement waste-paper pile.

"And about the body were a dozen things to indicate that the crime was committed in the basement, not upon the upper floor. Ashes inhaled into the girl's lungs are among other evidences of this. If she was murdered in the basement, then Frank must be innocent."

"But," I asked Detective Burns, "why should the police have selected Leo Frank as a victim. He never had played any part in politics, he is said to have had no enemies. Why should they have been so anxious to slaughter him?"

"They were not anxious to slaughter him, especially," was the reply. "But they needed a victim, and needed one badly and quickly. If they succeed in hanging Leo M. Frank they will have won their game."

By Edward Marshall.

Leo M. Frank is hanged for the murder of Mary Phagan, in Atlanta, it will be one of the most monstrous miscarriages of justice which this country ever has known," said William J. Burns to me last Sunday. He is the best-known detective in the world, and has devoted months to work upon this case.

I talked to him first at his home in Bronxville and later as we sped toward Albany on the Limited, for he had suddenly been called to Chicago. I was especially interested in what he said, for I had gone to Atlanta before he went, last year, and after carefully investigating the Frank case, had come to the conclusion which his verdict confirms. Indeed, before he went to Atlanta at all he came to me to talk the case over.

"The accused man is absolutely guiltless of the most remote connection with responsibility for the crime," he continued.

"The really guilty man not only is known, but is in custody as a witness, and under a short sentence as an accessory.

"The convicted man is an educated, high-minded, respectable, and by his friends highly respected, young married man. He deserves the sympathy and help of every decent person in this country. His execution for this crime would be a sin as black as that of which he was unjustly accused and convicted. The other man is a negro of bad reputation.

Victim of Police.

"The convicted white man is the victim of the fact that the Atlanta police had to have a culprit and were not bright enough to get the right one at once. Later to have charged him with being principal instead of an accessory would have been to admit error.

"The public which paid their salaries was tiring of their incompetence. In Atlanta, or near there, twenty-one atrocious murders had been done in a comparatively brief period precedent to the killing of Mary Phagan. No one had been punished. I am not sure that any arrests had been made.

"The mysterious murder of the girl, whose body was found in the basement of the pencil factory during the night following Confederate Memorial Day, was especially brutal and atrocious. Something had to be done.

"The crime bore every earmark of having been committed by a pervert negro; but Leo M. Frank, the manager of the factory, was the last person who easily could be found who had seen the child alive, and all other clues were practically neglected. It seemed easiest to fasten the murder on him, and the police set about the task.

"A strong fight was made for his conviction, despite the obvious inference that the negro, Conley, whose absurd and revolting perjuries were the chief evidence against Frank, was the principal instead of a mere helper.

"Recently William Smith, who was Conley's counsel, has withdrawn from the case, publicly announcing his belief in Frank's innocence and Conley's guilt; but Leo M. Frank remains in imminent danger of execution for the crime. It is amazing.

"Let us consider events in their

order. Frank went to the pencil factory on Confederate Memorial Day to get out some delayed work, although it was a holiday. For one reason or another he had many callers, and workmen were in the building. Mary Phagan, an employe of the 'metal room,' was among his callers, and he gave her an envelope containing a small sum due her for work.

Had to Do Something.

"That night she was found brutally murdered in the basement of the factory. There were many reasons other than the love of abstract justice with which all men are credited which made it imperative that Atlanta officialdom should not permit this crime to go into history unaccompanied by the record of the punishment of some one for it.

"In the first place, it was a murder, and too many murder mysteries had gone unsolved of late in Atlanta and vicinity. The public was tired of that sort of thing. The Mayor publicly had called the police incompetent.

"These things spurred them toward action. Probably they would have preferred right action. But they did not know what that would be. They were stupid. I studied their work carefully and know that to be true.

"So, being spurred to some action, they were spurred to any action in this case. That happened to be the arrest of Frank.

"In the second place, the victim of the murder was a young and pretty white girl, and the crime was accompanied by revolting details. The people of the South, and more especially of Atlanta, are unlikely to tolerate police indifference, or police failure of any kind, in a case of that sort. So, spurred to some action, and being too incompetent to know what action would be right, the police were spurred to any action in this case. That happened to be the arrest of Frank.

"In the third place, it was the murder of a working girl, and Atlanta is an important manufacturing city in which working people not only vote but have large influence because they vote—influence capable of upsetting even a police régime. Instantly the demand came from this working population, especially from the labor unions, even more insistent than the general demand, that something must be done. This helped to spur the police to some action, any action in this case, and that happened to be the arrest of Frank.

"Now let us consider the facts of the murder very briefly. One of the most important was that Frank was the last person who could be found who acknowledged having seen the little girl alive. She had called at his office for her wages and he had given the envelope to her. He said she had then gone away; but no one could be found who would admit having seen her after she had left that office.

"The watchman, Newt Lee, who, late that night, found her dead body in the basement, with a cord about his neck and a great cut in his head, was arrested, but released for lack of any evidence. He had been prompt in notifying the police of his discovery.

"Now we must consider the entrance of 'Jim' Conley into the case. He was an employe of the factory, known to be a drunk and dissolute negro, who

had been in trouble often, and had been seen, that day, apparently nearly asleep upon some boxes in a half-concealed position at the foot of the stairs leading up to the second story from the building's entrance and to Frank's office. He had been drinking.

"A newspaper page gives small opportunity for the discussion of a case upon which volufiles might be written, but there is at least one more thing which must be taken into consideration, even in a review as brief as this must be. Conley was arrested. He was 'sweated.'

"His life was in serious danger. He 'confessed' presently that his presence in the shadow near the foot of those stairs on this holiday was explainable by the circumstance that he was acting as sentry at Frank's request.

"The young manager, he said, had had designs upon Mary Phagan, and did not wish to be disturbed while he was accomplishing his purpose. As a matter of fact, Frank did not know the girl would be there, and many people already were in the building.

"Then, said Conley, Frank called him later, and that when he went to him the young manager told him that in struggling with the girl he had 'struck her too hard' and killed her.

"Conley said he helped Frank in getting the body from an upper floor down to the basement by means of the elevator, and that it had been the intention there to burn it in the furnace, but that this plan had been abandoned. He said Frank gave him a large sum of money, but took it back.

Perjury Rampant.

"In a dispassionate review of the case by a stranger it seems incredible that this tale by the negro should have been credited at all. It was established that the place in which he said the crime had been committed had been open to the observation of several people, and the presence of what might have been a little blood stain was easily explainable. Conley explained the fact that no one saw him in Frank's office at the time when he claimed to have been conferring with him there by the flimsy tale that he had been concealed in a wardrobe during the period of visitors' presence.

"It was established by incontrovertible physical facts that the elevator on which he said the girl's body had been carried to the basement had not been run at all that day.

"The 'time element' in the case was of tremendous importance, and Frank's analysis of it proved conclusively that he could not have done the things which Conley said he did. Conley's story, indeed, was riddled in a hundred places at the trial.

"But the public was clamoring for the punishment of some one; the police no less than Leo Frank were on trial. Excitement ran to fever heat.

"In all my professional experience I have heard of few cases in which perjury played so large a part outside of court (as it did in this case) or in it.

"Instantly there seemed to spring to the surface of affairs a number of people, hysterically anxious to get into the limelight through connection with the case. A flood of affidavits appeared, disturbing to Frank's statement of the all-important 'time



Leo M. Frank.